

In the Indiana Supreme Court

CASE NUMBER:

ORDER AMENDING ADMINISTRATIVE RULES

Under the authority vested in this Court to provide by rule for the procedure employed in all courts of this state and this Court's inherent authority to supervise the administration of all courts of this state, Rules 5, 7, 9, and 16 of the *Indiana Administrative Rules* are amended to read as follows (deletions shown by ~~striking~~ and new text shown by underlining):

ADMINISTRATIVE RULES

Rule 5. Payment and Notification Procedures

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(B) **Senior Judges.** The Division of State Court Administration shall administer the payment procedures for senior judges in accordance with the provisions set forth in this rule.

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(6) *Per Diem Allowance.* As provided by statute, a senior judge is entitled to senior judge service credit and a per diem allowance of fifty dollars (\$50.00) per day for the first thirty (30) days of service in a calendar year. Pursuant to statute, the Indiana Supreme Court may adjust the per diem rate and increase it to not more than ~~one~~ two hundred dollars (~~\$100.00~~ 200.00) for each day of service after the first thirty (30) days. A senior judge who serves substantially shorter time than the daily calendar of the court where the judge is serving may, with the permission of the Executive Director, accumulate and consolidate such service times into a day's credit. A senior judge residing outside of the county where service is rendered is entitled to reimbursement for mileage at a rate equal to other public officials as established by state law and reasonable expenses incurred in performing the duties of senior judge for each day served. A senior judge may not be compensated as such for more than one hundred (100) calendar days in the aggregate during any one calendar year.

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Rule 7. Judicial Retention Schedules

I. GENERAL

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- C. **Records Authorized for Transfer.** Records deemed permanent or authorized for transfer to the Indiana State Archives, Indiana Commission on Public Records, must follow the Commission's written procedures and use its approved forms before transfer can occur. With the written approval of the Indiana Supreme Court, records authorized for transfer to the Archives Division of the Indiana Commission on Public Records may be deposited by said Commission with a local repository, such as a historical society, library, archives, or university, as designated by the Commission and meeting the archival standards of the Commission.

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II. PROCEDURE

It is critically important that these schedules be carried out exactly as approved since this is your legal authority to do so, and only for the records so listed. Once a record is destroyed, its information is lost. Do not assume that the record under consideration is the record actually authorized for destruction. You must compare both the title and content before a record series can be destroyed. Work in a spirit of caution. If in doubt, save until you can get advice from the Division of State Court Administration or the Indiana Commission on Public Records.

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CRIMINAL (2)

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85-2-10	Habeas Corpus (ledger)	1790- +	transfer to Archives Division, Indiana Commission on Public Records 6 years after date of last entry.
85-2-11R	Entry Docket	1790-1913	maintain permanently in original or in microform meeting the standards of Admin.R. 6. Microfilm after 20 years and transfer original to the Indiana Commission on Public Records or otherwise dispose of upon approval of the Division of State Court Administration.
85-2-12	Entry Docket	1913-1990	maintain permanently in original or in microform;

	& Fee Book		microfilm 20 years after date of last entry.
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90-2-21.2	Misdemeanor Criminal Case Files (CM)	1790- to 9/1881 9/1881 +	transfer all files prior to 9-01-1881 to Archives Division, Indiana Commission on Public Records. Maintain a 2% statistical sample, which is determined by the Division of State Court Administration with transfer to the Archives Division, Indiana Commission on Public Records. Destroy remaining files 10 years after final disposition.
		<u>1990- +</u>	<u>handgun possession maintain fifteen years.</u>
85-2-22	Judgment Docket Criminal	rare as separate volume	destroy 20 years after date of last entry.
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ESTATES

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85-3.2-04	General Entry Claim and Allowance Docket	c. 1879 c.	maintain permanently in original or in microform.
85-3.2-05	Estate Entry Claim and Allowance Docket & Fee Book (Form 42)	c. 1911- +	maintain permanently; microfilm and destroy original 20 <u>3</u> years after date of last entry.
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85-3.2-13	Transfer Docket, Probate	discretionary to c. 1920's	destroy.
85-3.2-14	Docket Sheets, Estate	c. 1910-1990	maintain permanently in original, or microfilm 20 <u>3</u> years after close of case.
85-3.2-15R	Probate/ Estate Case Files	1790-1990	maintain permanently in original or in microform (microfilm 2 years after order of final discharge of personal representative).
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PATERNITY

85-4.2-01R	Paternity Book	1941- +	maintain Order permanently in court; microfilm filled ledger for security.
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85-4.2-02R	Docket Sheets	1941- +	maintain permanently in court; microfilm 20 <u>3</u> years after disposition using standards of Admin. R. 6.
85-4.2-03R	Paternity Case Files	1941- +	maintain permanently (microfilm after 5 years). <u>If court has an approved imaging system under Admin. R. 6, scan after 1 year, destroy hard copy and convert scanned images to microfilm after 5 years.</u>
87-4.2-04R	Dismissed Paternity Case Files	1941- +	maintain permanently <u>in hard copy or microfilm after 2 years from order of dismissal</u> (microfilm after 5 years).
91-4.2-05	Shorthand Notes/ Tapes/Disks Not Transcribed	1941- +	maintain permanently.

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ADOPTIONS

85-4.3-01R	Adoption Order Book/Record	1941- +	maintain permanently in original or in microform meeting the standards of Admin.R. 6. Microfilm after 20 years and transfer originals to the Indiana Commission on Public Records or otherwise dispose of upon approval of the Division of State Court Administration.
85-4.3-02R	Adoption Case Files	1941- +	maintain permanently in hardcopy or in microform (microfilm after 5 years). <u>If court has an approved imaging system under Admin. R. 6, scan after 1 year, destroy hard copy and convert scanned images to microfilm after 5 years.</u>
95-4.3-02.1	Dismissed Adoption Case Files	1941- +	maintain permanently in hard copy or microform (microfilm after 2 years from order of dismissal).

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COUNTY COURT AND COURTS PERFORMING COUNTY COURT FUNCTIONS (5)

85-5.1-01R	Small Claims Docket and Fee Book	1976-1990	destroy after 20 years if not used as substitute Order Book (see 85-5.1-02R).
85-5.1-02R	Civil Order Book - Small Claims/ Small Claims Docket	1976-1990	maintain permanently in original or in microfilm meeting the standards of Admin.R. 6. Microfilm after 20 years and transfer originals to the Indiana Commission on Public Records or otherwise

dispose of upon approval of the Division of State Court Administration.

85-5.1-03R	Small Claims Docket Sheets	1976-1990	if no Small Claims Order Book is created under Trial Rule 77, 1979 Edition of Rules, maintain permanently microfilm 3 years after disposition using standards of Admin. R. 6. Otherwise destroy 10 years after end of calendar year (if filed separately) and after audit by State Board of Accounts.
90-5.1-03.1R	Small Claims Shorthand Notes/Tapes/ Disks Not Transcribed	1971- +	destroy or reuse 3 years after date of trial. See 89-1.1-26.1R for CP cases.

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Rule 9. Access to Court Records

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(E) Remote Access and Fees. Courts should endeavor to make at least the following information, when available in electronic form, remotely accessible to the public unless public access is restricted pursuant to sections (G) or (H):

- (1) Litigant/party indexes to cases filed with the court;
- (2) Listings of new case filings, including the names of the parties;
- (3) The chronological case summary of cases;
- (4) Calendars or dockets of court proceedings, including case numbers and captions, date and time of hearings, and location of hearings;
- (5) Judgments, orders, or decrees.

Upon the request and at an amount approved by the majority of judges of courts of record in the county, the County Board of Commissioners may adopt an electronic system fee to be charged in conjunction with electronic access to court records. The fee must be approved by the Division of State Court Administration. The method of the fee's collection, deposit, distribution and accounting must be approved by the Indiana State Board of Accounts.

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Rule 16. Electronic Filing and Electronic Service Pilot Projects

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(C) User Agreements. The User Agreement must be approved by the Division of State Court Administration. The User and the Court must execute the User Agreement before the User may use the E-filing system. The User must file the executed User Agreement, and the clerk must note the filing of the agreement on the Chronological Case Summary (CCS) and enter it into the Record of Orders and Judgments (RJO) of the case in which the User is appearing. In the User Agreement, the User must agree to receive service of Documents through the E-filing system. In the User Agreement, the Court shall issue to the User distinct remote access with a unique password and user identification. The trial court may enter into a User Agreement with any attorney licensed to practice law in Indiana, an individual designated pursuant to Ind. Small Claims Rule 8(C) to appear for a corporation, partnership or sole proprietorship in small claims cases, and with any party in a particular case.

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(D) Fees. Upon the request and at an amount approved by the majority of judges of courts of record in the county, the County Board of Commissioners may adopt, in accordance with Ind. Administrative Rule 9(E), an electronic system fee to be charged in conjunction with the use of the E-filing system. The fees must be included in the User Agreement and in the plan submitted pursuant to section (B) of this rule.

(E) Signing of Documents. Documents filed through the E-filing system by use of a valid username and password are presumed to have been signed and authorized by the User to whom that username and password have been issued.

(F) Commencement of an Action. An action may ~~not~~ be commenced by E-filing only in a court which has adopted a pilot project plan approved by the Division of State Court Administration pursuant to this rule. ~~An action must be commenced in conformity with Trial Rule 3 and pursuant to Trial Rules 4 through 4.17 of the Indiana Rules of Trial Procedure.~~

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These amendments shall take effect January 1, 2007.

The Clerk of this Court is directed to forward a copy of this order to the clerk of each circuit court in the state of Indiana; Attorney General of Indiana; Legislative Services Agency and its Office of Code Revision; Administrator, Indiana Supreme Court;

Administrator, Indiana Court of Appeals; Administrator, Indiana Tax Court; Public Defender of Indiana; Prosecuting Attorney's Council; Indiana Supreme Court Disciplinary Commission; Indiana Supreme Court Commission for Continuing Legal Education; Indiana Board of Law Examiners; Indiana Judicial Center; Division of State Court Administration; Indiana Judges and Lawyers Assistance Program; the libraries of all law schools in this state; the Michie Company; and the West Group.

The West Group is directed to publish this Order in the advance sheets of this Court.

The Clerks of the circuit court are directed to send a copy of this order to all the judges, including any city, town, and small claims court judges within their respective counties and to post this Order for examination by the Bar and general public.

DONE at Indianapolis, Indiana, this _____ day of August, 2006.

Randall T. Shepard
Chief Justice of Indiana

All Justices Concur